

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Create the Small  
Business Advisory Council.

Rulemaking 10-12-009  
(Filed December 16, 2010)

**DECISION GRANTING COMPENSATION TO THE GREENLINING INSTITUTE FOR  
SUBSTANTIAL CONTRIBUTION TO DECISION 12-05-024**

<b>Claimant: The Greenlining Institute</b>	<b>For contribution to Decision (D.) 12-05-024</b>
<b>Claimed (\$): \$4,603.25</b>	<b>Awarded (\$): \$4,618.00</b>
<b>Assigned Commissioner: Catherine J.K. Sandoval</b>	<b>Assigned ALJ: Timothy J. Sullivan</b>

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of Decision:** Decision (D.) 12-05-024 declines to create a Small Business Advisory Council.

**B. Claimant must satisfy intervenor compensation requirements set forth in  
Pub. Util. Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	n/a	Correct
2. Other Specified Date for NOI:	April 6, 2011	Correct
3. Date NOI Filed:	February 3, 2011	Correct
4. Was the NOI timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:	Rulemaking (R.) 10-02-005	Correct
6. Date of ALJ ruling:	March 29, 2010	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes

<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.08-12-009	Correct
10. Date of ALJ ruling:	June 29, 2010	Correct
11. Based on another CPUC determination (specify):		n/a
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-05-024	Correct
14. Date of Issuance of Final Order or Decision:	May 24, 2012	Incorrect
15. File date of compensation request:	June 19, 2012	Correct
16. Was the request for compensation timely?		Yes

**C. Additional Comments on Part I:**

#	Claimant	CPUC	Comment
14		X	The Commission issued D.12-05-024 on May 31, 2012. The date intervenors provided here is the date of the Commission vote, not the issuance date.

**PART II: SUBSTANTIAL CONTRIBUTION****A. Claimant’s contribution to the final decision:**

<b>Contribution</b>	<b>Specific References to Claimant’s Presentations and to Decision</b>	<b>Showing Accepted by CPUC</b>
<b>A. Purpose of a Small Business Advisory Council</b> Greenlining supported creating the Small Business Advisory Council (SBAC) because of the purposes it would serve. California’s small business customer base is incredibly diverse – there are small businesses in all communities, in all sectors and industries, run by a diverse array of entrepreneurs. The small business customer perspective is often under-represented at the Commission. Greenlining argued that finding a way –	Opening Comments on the Order Instituting Rulemaking (OIR), at 3-4.	Yes. Although Greenlining’s recommendation was not adopted in full, Greenlining did contribute to the development of the decision. Greenlining’s participation provided information and argument that was considered by the Commission, thereby assisting the Commission’s informed judgment based on a more complete record. We

<p>such as the SBAC – to better incorporate the small business customer perspective into the Commission’s business will have economic benefits for the state as a whole, and in particular for the communities of color Greenlining represents, where small businesses create the majority of jobs.</p> <p>***</p> <p>Greenlining emphasized that the Council could not serve as a substitute for small business representation in individual Commission proceedings, as a matter of due process.</p> <p>***</p> <p>Though the proposed, and eventually final, decision did not create a SBAC because of legal and financial complications, it did recognize the need for a greater small business voice in the Commission’s business, and suggested several means of doing so, including existing small business expositions and roundtables.</p> <p>In response, Greenlining made several suggestions as to how often roundtables should be held, how they should be noticed, ways to ensure diverse representation, Commissioner attendance, location of roundtables, and ongoing year-round solicitation of feedback.</p> <p>D.12-05-024 adopted all of Greenlining’s recommendations from its Opening Comments on the Proposed Decision, with one budget-related condition.</p>	<p>Reply Comments on the OIR, at 2-3; D.12-05-024, FOF 2.</p> <p>Proposed Decision; D.12-05-024, FOF 1.</p> <p>Opening Comments on the Proposed Decision.</p> <p>D.12-05-024, at 9-10; FOF 14, 15, 16, 17, 18, and 19; OP 1.</p>	<p>make no reductions to Greenlining’s claim for time spent on this issue.</p>
<p><b>B. Makeup of the SBAC</b></p> <p>Greenlining expressed concern that any small body could adequately represent all of the diverse needs and interests of</p>	<p>Opening Comments on the OIR, at 5-6; Reply Comments on the OIR, at 3-4.</p>	<p>Yes. Although Greenlining’s recommendation was not adopted in full, Greenlining did contribute</p>

<p>the small business community, in particular the needs of businesses whose owners are immigrants, who do not speak fluent English, those serving low income communities, etc. As such, Greenlining urged that the Council's makeup reflect the state's racial and ethnic diversity, as well as sector diversity between different kinds of small businesses (retailers, farmers, internet start-ups, etc.).</p> <p>***</p> <p>Greenlining also cautioned that the Council should not be comprised of members whose past positions always agreed with the Commission's direction. Rather, the Commission would benefit from hearing different points of view.</p>	<p>Reply Comments on the OIR, at 4.</p>	<p>to the development of the decision. Greenlining's participation provided information and argument that was considered by the Commission, thereby assisting the Commission's informed judgment based on a more complete record. We make no reductions to Greenlining's claim for time spent on this issue.</p>
<p><b>C. Administrative matters pertaining to the SBAC</b></p> <p>Greenlining advocated that the process of soliciting small business customer feedback must begin with a comprehensive survey to be distributed more widely than just a nine-member body, to get at least a snapshot of what issues are most important to a wide array of small business customers.</p> <p>***</p> <p>Greenlining supported the OIR's proposal to reimburse Council members for the costs of their participation, in a manner similar to that of the Low Income Oversight Board. Greenlining noted that compensation would be essential to allow small business owners to take time away from running their businesses, without suffering financial consequences as a result of their participation.</p> <p>Greenlining emphasized that reimbursement must be offered to all</p>	<p>Opening Comments on the OIR, at 6-7.</p> <p>Opening Comments on the OIR, at 8-9.</p> <p>Reply Comments on the OIR, at 5.</p>	<p>Yes. Although Greenlining's recommendation was not adopted in full, Greenlining did contribute to the development of the decision. Greenlining's participation provided information and argument that was considered by the Commission, thereby assisting the Commission's informed judgment based on a more complete record. We make no reductions to Greenlining's claim for time spent on this issue.</p>

<p>members, not just those who demonstrated financial hardship. Such a demonstration would constitute a burden that would prevent many potential participants from applying at all.</p> <p>***</p> <p>Greenlining supported the recommendation of other parties that Council member terms be staggered to preserve institutional memory, as is the case with the Low Income Oversight Board.</p>	<p>Reply Comments on the OIR, at 6.</p>	
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</b>	<b>Yes</b>	<b>Correct</b>
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	<b>Yes</b>	<b>Correct</b>
<b>c. If so, provide name of other parties:</b> Verizon, The Utility Reform Network, Southwest Gas Corporation, Southern California Gas Company, San Diego Gas & Electric Company, Southern California Edison Company, Golden State Water Company, Division of Ratepayer Advocates, Pacific Gas and Electric Company, AT&T California, California Small Business Association / California Small Business Roundtable, Small Business California.		<b>See below</b>
<p><b>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b></p> <p>While all consumer parties in this proceeding represented the interests of small business customers, Greenlining was the only one to specifically represent small businesses owned by people of color. These businesses are typically among the hardest to reach, more likely to be on the smaller side of the spectrum, and the least likely to have a voice in the policy-making process. As such, we complemented the contributions of the other consumer parties by providing a more specific point of view. Where Greenlining agreed with other parties, it succinctly stated its support and provided supplementary comments, without reiterating the other party's arguments.</p>		<p>Although other parties made similar arguments, we conclude that Greenlining's participation was in addition to but not duplicative of the arguments and evidence presented by other parties. Greenlining's claim of coordination with other parties to</p>

	avoid duplication is supported by its timesheets. We make no reduction here for duplication of effort.
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**C. Additional Comments on Part II:**

#	Claimant	CPUC	Comment
(B)(c)		X	We did not see submittals in the proceeding from parties Southwest Gas Corporation or Golden State Water Company. We are thus unable to verify whether their positions were similar to those of Greenlining. As to the other parties, Greenlining is correct that they articulated positions similar to Greenlining's.
(A)(A)-(C)		X	Taken as a whole, Greenlining's participation in the proceeding contributed to the decision by helping shape issues considered in this matter. Also, though we rejected the creation of the SBAC, we did expressly adopt Greenlining's suggestions concerning the planning of roundtables extremely helpful and will use them as a guide to planning our roundtables. Concerning Greenlining's recommendation that the Commission strive to hold business roundtables separate from expos, we advised the Commission's Business and Community Outreach officer to follow Greenlining's recommended practice to the extent possible unless budgetary and personnel resource constraints made such an approach impractical.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation:</b>	<b>CPUC Verified</b>
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>Greenlining's hours are reasonable, in part because of its niche constituency, as described above in Part II(B)(d), and also because of its efforts to coordinate with other parties and support, rather than reiterate, their work. Greenlining assigned a lead counsel, Mr. Young, who handled the bulk of the proceeding with minimal oversight and guidance by senior counsel, Ms. Chen. Further, Greenlining's recorded hours were substantially less than the already-minimal estimate provided in its NOI, with Ms. Chen reporting roughly ¼ of her anticipated time and Mr. Young reporting less than half of his anticipated time.</p> <p>It should be noted that in some instances, Mr. Young spent more time on certain activities, including drafting filings, than perhaps a more experienced attorney</p>	Yes. We make no reduction in Greenlining's hours on this basis.

would have. Mr. Young was a Fellow during his participation in the proceeding, in his first year of practice. This was one of the first proceedings in which he served as lead counsel for Greenlining. While his relative inexperience may have resulted in more time spent on certain tasks, that inexperience is also reflected in the low rate at which his time is billed. As such, it is reasonable for a new attorney to spend a little more time on certain tasks than a more experienced one.		
<b>c. Allocation of Hours by Issue</b>  Greenlining's time is allocated by issue category as follows:		Yes. We make no reallocation of Greenlining's hours.
A. Purpose of a Small Business Advisory Council	29.93%	
B. Makeup of the SBAC	28.83%	
C. Administrative matters pertaining to the SBAC	27.74%	
D. General	13.50%	
<b>Total</b>	<b>100%</b>	

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stephanie Chen	2011	4.5	\$185	D.12-04-043	\$832.50	4.5	\$185	\$832.50
Stephanie Chen	2012	1.4	\$185	D.12-04-043	\$259.00	1.4	\$190	\$266.00
Ryan Young	2011	21.5	\$150	D.12-04-043	\$3,225.00	21.5	\$150	\$3,225.00
	Subtotal:				\$4,316.50	Subtotal:		\$4,323.50
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
[Person 1]			\$					
[Person 2]								
	Subtotal:					Subtotal:		

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stephanie Chen	2012	3.1	\$92.5	D.12-04-043	\$286.75	3.1	\$95	\$294.50
	Subtotal:				\$286.75	Subtotal:		\$294.50
COSTS								
#	Item	Detail			Amount	Amount		
Subtotal:						Subtotal:		
TOTAL REQUEST:					\$4,603.25	TOTAL AWARD:		\$4,618.00
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate.</p>								
Attorney		Date Admitted to CA BAR <sup>1</sup>		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
Stephanie Chen		August 23, 2010		270917		No		
Ryan Young		December 16, 2010		274828		No		

**C. Greenlining's Additional Comments and Attachments on Part III:**

<b>Attachment or Comment #</b>	<b>Description/Comment</b>
Attachment A	<b>Recorded Hours for Greenlining Attorneys</b>
Attachment 1	<b>Certificate of Service</b>

<sup>1</sup> This information may be obtained at: <http://www.calbar.ca.gov>.

**D. CPUC Disallowances & Adjustments:**

#	Reason
2. Increase in 2012 hourly rates.	Abiding by Resolution ALJ-281, 2012 hourly rates have been raised to reflect the 2.2% Cost-of-Living Adjustment adopted by the resolution.

**PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?</b>	Yes

**FINDINGS OF FACT**

1. The Greenlining Institute has made a substantial contribution to Decision 12-05-024.
2. The requested hourly rates for The Greenlining Institute's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable contribution is \$4,618.00.

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

**ORDER**

1. The Greenlining Institute is awarded \$4,618.00.
2. Within 30 days of the effective date of this decision, the Commission's Fiscal Office shall disburse the awarded compensation from the Commission's Intervenor Compensation Program Fund. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H. 15, beginning September 2, 2012, the 75th day after the filing of The Greenlining Institute's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

4. This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D1205024	
<b>Proceeding(s):</b>	R1012009	
<b>Author:</b>	ALJ Timothy J. Sullivan	
<b>Payer(s):</b>	Commission's Intervenor Compensation Program Fund	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
The Greenlining Institute	06/19/2012	\$4,603.25	\$4,618.00	No	Resolution ALJ-281.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Stephanie	Chen	Attorney	Greenlining	\$185	2011	\$185
Stephanie	Chen	Attorney	Greenlining	\$185	2012	\$190
Ryan	Young	Attorney	Greenlining	\$150	2011	\$150

**(END OF APPENDIX)**